

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION**

CASE NO.: 9:23-cv-03747-DCN

William Bishop,)	
)	
Plaintiff,)	COMPLAINT
)	(Declaratory Judgment)
v.)	(Non-Jury)
)	
Esurance Insurance Company and)	
Elliot Cave,)	
Defendants.)	
_____)	

Plaintiff alleges:

1. Plaintiff is a citizen and resident of Orangeburg County, South Carolina.

2. Defendant Esurance Insurance Company (“Esurance”) is an insurance company organized under the laws of another state but is authorized to write insurance policies in the state of South Carolina and has done business in Hampton County, South Carolina.

3. Defendant Elliot Cave (“Cave”) is a citizen and resident of Hampton County, South Carolina.

4. This is a declaratory judgment action brought pursuant to the South Carolina Declaratory Judgments Act; as such, it does not seek judgment for monetary damages, but a declaration from the Court as to the parties’ respective rights and obligations under an insurance policy issued by Esurance to Cave.

5. Pursuant to S.C. Code Ann. § 15-53-80 (1976, as amended), Plaintiff has named Cave as a party to this action because he has an interest that may be affected by the outcome of this action.

6. Venue of this action is proper in Hampton County under S.C. Code Ann. § 15-7-30, 70 (1976, as amended) as Cave resides in Hampton County and the judgment giving rise to the present claim for declaratory relief was issued by the Court of Common Pleas of Hampton County, Civil Action No.: 2020-CP-25-00181.

7. Esurance issued a motor vehicle liability policy (policy no.: PANC-009105128) (“the policy”) to Cave.

8. The policy included bodily injury liability coverage with limits of One Hundred Thousand 0/100 Dollars (\$100,000.00) per person.

9. On June 4, 2022, Plaintiff was traveling north on SC Highway 321 in Hardeeville, South Carolina. At the same date and time, Cave was traveling south on SC Highway 321. Suddenly and without warning, Cave crossed the center line into oncoming traffic and collided with Plaintiff’s vehicle.

10. As a result of the subject collision, Plaintiff sustained serious and severe injuries.

11. The policy was in effect on the date of the subject collision.

12. Shortly thereafter, Plaintiff filed an action against Cave, Civil Action No.: 2020-CP-25-00181, alleging his injuries were caused by Cave’s negligence and recklessness (“the underlying lawsuit”).

13. During the underlying lawsuit, Cave failed to answer or otherwise appear, resulting in an Order of Default (filed September 20, 2022) (“the order”).

14. The order required Walter Sanders to serve as Special Referee and determine the amount of damages Plaintiff sustained. The Special Referee entered the Judgment Order of Damages for Plaintiff against Cave for Two Hundred and Fifty Thousand 0/100 Dollars (\$250,000.00) on October 5, 2022 (“the judgment”).

15. Plaintiff sent Esurance a letter with the judgment attached on December 12, 2022, requesting Esurance to pay the judgment.

16. In response, Esurance refused to pay the judgment, citing incorrect North Carolina law in an attempt to evade its responsibility to its insured under the policy.

17. Upon information and belief, Esurance's position is not factually supported, contrary to South Carolina law, violates the law applicable to the policy and is contrary to an insured's reasonable expectations.

18. Actual and justiciable controversies exist between the parties regarding the policy; therefore, a declaratory judgment is appropriate to assist the parties in understanding their rights and responsibilities under the policy.

19. Plaintiff is entitled to a declaration that Esurance is responsible for satisfying the judgment filed in the underlying lawsuit.

WHEREFORE, Plaintiff prays for a declaratory judgment that Esurance is responsible for the judgment in the underlying lawsuit. Plaintiff also seeks the costs of this action, post judgment interest and any other relief as the Court may deem just and proper.

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August 1, 2023
Hampton, South Carolina.